

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRISTOPHER LOTTNER,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANTHONY LOTTNER,

Respondent-Appellant,

and

CHRISTY COUNTERMAN,

Respondent.

UNPUBLISHED

May 2, 2006

No. 265975

Ottawa Circuit Court

Family Division

LC No. 04-048163-NA

Before: White, P.J., and Fitzgerald and Talbot, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination of respondent-appellant's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Physical abuse and failure to provide proper care and custody caused by respondent-appellant's lack of parenting skills and anger management issues were the conditions leading to adjudication. Respondent-appellant complied faithfully with anger management counseling, Parenting Plus sessions, and couples counseling, and maintained employment and housing during this 13-month proceeding. However, progress in rehabilitating the parent is required before compliance with services can be held to show an ability to provide proper care or custody of a child. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).

Respondent-appellant did not show significant progress in rectifying his anger management issues, his toxic relationship with the child's mother, or his lack of parenting skills. By the time of termination, the evidence showed that respondent-appellant would need long-term

support services or a mentor in order to effectively parent, his relationship with the child's mother had not improved with counseling, he had failed to implement the patience he had allegedly learned in anger management counseling and Love and Logic classes, he argued continually with the child's mother over trivial matters, and both lacked awareness of the detrimental impact this had on Christopher. Although respondent-appellant analogized this proceeding to a divorce case in which parental rights are not terminated solely because of detriment to a child cause by the parties' continual fighting, this proceeding was not a divorce but involved both parents' physical abuse of the child and their failure to either permanently separate or remedy their relationship.

Given the fact that significant progress had not been made despite 13 months of compliance with services, and given the fact that respondent-appellant had emotional and intellectual deficits that would hinder progress, the trial court did not err in determining that respondent-appellant would not be able to rectify the conditions of adjudication or provide proper care and custody of Christopher within a reasonable time.

Affirmed.

/s/ Helene N. White
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot